

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:	§	
	§	CASE NO. 10-40052
VAN HUNTER DEVELOPMENT, LTD.	§	
	§	
DEBTORS	§	

**THE FROST NATIONAL BANK’S OBJECTION TO DISCLOSURE STATEMENT OF
VAN HUNTER DEVELOPMENT, LTD. PURSUANT TO 11 U.S.C. § 1125**

The Frost National Bank (“Frost”) files its Objection to Disclosure Statement for Plan of Reorganization of Van Hunter Development, Ltd. pursuant to Section 1125 of the United States Bankruptcy Code with knowledge as to its own acts and otherwise upon information and belief as follows:

1. Frost is a secured lender of the Debtor and holds a security interest in various real property of the Debtor pursuant to the Frost Loan Documents.¹ As of the filing of this case on January 4, 2010, \$5,871,440.07 remains due and owing under the Frost Loan Documents pursuant to Frost’s Proof of Claim.

2. Frost has two primary objections to the Disclosure Statement: (a) the Disclosure Statement does not contain “adequate information” with which Frost or other creditors can make an informed decision on the Chapter 11 Plan; and (b) the Debtor does not have the legal authority to prosecute the Disclosure Statement and Chapter 11 Plan.² As a result, the Court should deny approval of the Disclosure Statement on either of these two grounds.

¹ The Frost Loan Documents include that certain: Development Loan Agreement dated April 7, 2006 between Frost and the Debtor; Floating Rate Promissory Note dated April 7, 2006 between Frost and the Debtor in the original principal amount of \$6,281,500.00; Promissory Note dated August 29, 2007 between Frost and the Debtor in the original principal amount of \$400,000.00. The Frost Loan Documents also include various security for the Debtor’s obligations thereunder, including that certain: Assignment of Leases and Rents dated April 7, 2006; Construction Deed of Trust dated April 7, 2006; and Pledge and Security Agreement dated April 7, 2006.

² Frost reserves rights, including all objections to the Chapter 11 Plan.

ADEQUATE INFORMATION

3. The Debtor owns undeveloped land and has no business operations. Article 6 of the Disclosure Statement provides that: (a) property taxes will be satisfied by December 31, 2011; (b) Frost's claim shall be satisfied by the payment of \$250,000.00 on the Effective Date and the remainder by December 31, 2011; and (c) general unsecured creditors will be paid in full by semi-annual equal payments with no interest and a final payment two years after the Effective Date. Pursuant to the Debtor's own Schedules and pleadings, these obligations total more than \$10,000,000.00 and the Debtor clearly does not have sufficient assets or business operations to satisfy these claims.

4. The Disclosure Statement does not contain any discussion of the source of these payments or the ability of the Debtor or third party to make such payments. The Disclosure Statement fails to contain projections, balance sheets, income statements, cash flow statements, or any verified financial information of the Debtor or third party funding source sufficient to enable a party to make an informed judgment about the Chapter 11 Plan. The Disclosure Statement should therefore be denied pursuant to 11 U.S.C. § 1125.

AUTHORITY TO PROSECUTE

5. The Debtor is a limited partnership and is owned 49.5% by Corey Van Trease as limited partner, 49.5% by Investment Hunter, LLC as limited partner, and 1% by its general partner Van Hunter Development GP, LLC. In turn, Van Hunter Development GP, LLC is owned 50% by Corey Van Trease and 50% Investment Hunter, LLC. As a result, a majority vote of the Debtor's equity requires the affirmative approval of both Corey Van Trease and Investment Hunter, LLC.

6. Mr. Van Trease authorized the filing of the bankruptcy petition in his capacity as Manager of the General Partner and signed the petition. Mr. Van Trease did not approve the filing of the Disclosure Statement and Chapter 11 Plan, either in his individual capacity as 49.5% limited partner, as Manager of the Debtor's general partner, or as 50% owner of the Debtor's general partner.

Mr. Van Trease likewise does not support the Disclosure Statement and Chapter 11 Plan at this time in any of the foregoing capacities. As a result, the filing of the Disclosure Statement and Chapter 11 Plan was without legal authority and the Debtor does not have the legal authority to continue to prosecute the Disclosure Statement and Chapter 11 Plan. Accordingly, the Disclosure Statement should be withdrawn, or in the alternative, denied.

WHEREFORE, PREMISES CONSIDERED, Frost requests the Court to: (a) deny the approval of the Disclosure Statement; and (b) award Frost such further relief, general or special, at law or in equity, to which Frost may show itself justly entitled.

Respectfully submitted,

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ATTORNEYS FOR THE FROST NATIONAL
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via electronic transmission via the CM/ECF system and/or first class mail, postage prepaid, on this 13th day of September, 2011, upon the following:

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